

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

SHELL GUAM, INC.,
a Guam corporation,

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

CIV03-00021

M/V GYOKO MARU NO. 18
and **NIKKI SUISAN CORPORATION,**
a Japan corporation,

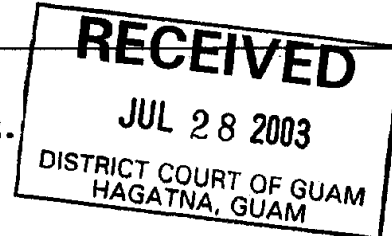
COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Steven A. Zamsky, Esq.
ZAMSKY LAW FIRM
Suite 805, GCIC Building
414 West Soledad Avenue
Hagatna, Guam USA 96910
Telephone: (671) 477-3637

ATTORNEYS (IF KNOWN)

UNKNOWN AT THIS TIME.



II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	5 <input checked="" type="checkbox"/>
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input checked="" type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY

Arrest and foreclosure and sale upon maritime claim and lien, and breach of contract.

V. NATURE OF SUIT

(PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- Transferred from
- ☐ 5 another district (specify)
- ☐ 6 Multidistrict Litigation
- Appeal to District
- ☐ 7 Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$
\$292,300.61

Check YES only if demanded in complaint:
JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

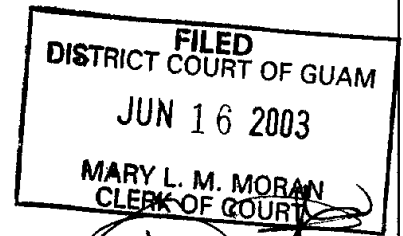
DATE

July 28, 2003

SIGNATURE OF ATTORNEY OF RECORD

Steven A. Zamsky, Esq., ZAMSKY LAW FIRM

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2 ZAMSKY LAW FIRM
3 Suite 805, GCIC Building
4 414 West Soledad Avenue
5 Hagåtña, Guam USA 96910
6 Telephone: (671) 477-3637
7 Facsimile : (671) 472-1584



8 Attorneys for Plaintiff Shell Guam, Inc.

9 IN THE DISTRICT COURT OF GUAM

03-00021

10 SHELL GUAM, INC.,
11 a Guam corporation,

12 Plaintiff,

13 vs.
14

15 M/V GYOKO MARU NO. 18,
16 and NIKKI SUISAN CORPORATION,
17 a Japan corporation,

18 Defendants

CIVIL CASE NO. CIV

19 VERIFIED
20 COMPLAINT *IN REM*
21 and *IN PERSONAM*

22 COMES NOW Plaintiff Shell Guam, Inc. (hereinafter "Plaintiff Shell") and alleges as
23 follows:

24 JURISDICTION

25 1. This is a case of admiralty and maritime jurisdiction, as will more fully appear, and
26 is an admiralty or maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil
27 Procedure and 28 USC §1292 and breach of contract on pendent and diversity jurisdiction as which
28 the amount in controversy exceeds \$75,000.00.

ORIGINAL

PARTIES

2. At all times which shall be mentioned **Plaintiff Shell**, was and still is a corporation duly organized and existing under and by virtue of the laws of Guam USA, with an office and principal place of business in Guam.

3. Defendant Nikki Suisan Corporation (hereinafter referred to as "**Defendant Nikki**") is a Japanese corporation with offices on Yokohama, Japan.

COUNT I

4. On information and belief the Defendant M/V Gyoko Maru No. 18 (hereinafter referred to as the "**Vessel**" or "**M/V Gyoko Maru No. 18**") is now, and/or during the pendency of this action will be, within this district.

5. From October 11, 2002 through February 5, 2003 the **Vessel's** agent requested that Shell delivered petroleum products to the **Vessel**.

6. From October 11, 2002 through February 5, 2003, **Plaintiff Shell** in fact provided those services to the **Vessel** which are unpaid in a total amount of \$43,367.63.

7. The Agreement between **Plaintiff Shell** and the **Vessel** provides for the payment of attorneys fees if an action is brought to collect any amounts owed to **Plaintiff Shell**.

8. As of June 16, 2003, the total amount of principal due and owing is \$43,367.63, plus interest thereon at the rate of 18% per annum from the 30th day of each delivery.

9. **Plaintiff Shell** is entitled to the payment of its attorneys fees and costs.

WHEREFORE, Plaintiff Shell Guam, Inc. prays:

1. For Judgment against the **Vessel** in the amount of \$43,367.63, plus interest at the rate of 18% per annum and **Plaintiff Shell's** attorneys fees and costs.

2. That process in due form of law, according to the practices of this Honorable Court, in causes of admiralty and maritime jurisdiction, issue against the **M/V Gyoko Maru No. 18**, her engines, tackle, equipment, and furnishings, etc., and that all persons having or claiming any interest therein be cited to appear and answer, under oath, all and singular the matters aforesaid, with interest and costs; that **Plaintiff Shell** have a decree for its damages aforesaid, with interest, attorneys fees, and costs; and that the **M/V Gyoko Maru No. 18** be condemned and sold to satisfy **Plaintiff Shell Guam, Inc.'s** Judgment.

3. That **Plaintiff Shell** have such other and further relief as this Court and justice may deem just and appropriate under the circumstances.

COUNT II

1. On January 28, 2003 **Defendant Nikki** made a written promise to **Plaintiff Shell** that **Defendant Nikki** would pay the amount due from Nikki Guam Corporation to **Plaintiff Shell** in the amount of \$292,300.61 and is due and owing. No part of that amount has been paid and **Plaintiff Shell** is entitled to Judgment against **Defendant Nikki** in the amount of \$292,300.61.

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WHEREFORE, Plaintiff Shell Guam, Inc. prays:

1. For Judgment against the **Defendant Nikki** in the amount of \$292,300.61.
2. That **Plaintiff Shell** have such other and further relief as this Court and justice may deem just and appropriate under the circumstances.

Dated this 16 day June 2003.

ZAMSKY LAW FIRM
Attorneys for Plaintiff Shell Guam, Inc.

By: 
STEVEN A. ZAMSKY

VERIFICATION

I, **Philip W. Stalker, Vice President/Director of Finance of Shell Guam, Inc.**, have read the foregoing **Verified Complaint *In Rem* and *In Personam*** and know the contents thereof, and that they are true and correct to the best of my knowledge and belief, except as to the matters therein stated on information and belief, and as to those matters believe them to be true.

Dated this 16~~7~~ day of June 2003.

PHILIP W. STALKER

GUAM USA)
) ss:
 MUNICIPALITY OF HAGÂTÑA)

On this 16th day of **June 2003**, before me, the undersigned Notary Public, duly commissioned in and for Guam USA, personally appeared **Philip W. Stalker**, known to me to be the **Vice President/Finance Director** of **Shell Guam, Inc.** and acknowledged to me that he executed the foregoing **Verified Complaint *In Rem* and *In Personam*** in such capacity, being fully authorized to do so, and for the purposes and considerations contained therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the
date last above written.

NOTARY PUBLIC

MARIE T. CAMACHO
NOTARY PUBLIC
In and for Guam USA
My Commission Expires: February 10, 2007
My Commission Number: NP#03-0004
Post Office Box 3745 Hagåtña, Guam USA 96932